

September 20, 2011
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

EDWARD ORYEM,

Plaintiff - Appellant,

v.

WILLIAM RICHARDSON, a/k/a Bill,
ARTHUR PEPIN, KAREN JANES,
ISABEL CHAVEZ, and TAMMY A.
BENAVIDEZ, individually and in
their official capacities;
DEPARTMENT OF PUBLIC
SAFETY, State of New Mexico, ex
rel.; NEW MEXICO STATE POLICE,
State of New Mexico, ex rel.;
TAXATION & REVENUE
DEPARTMENT, State of New
Mexico, ex rel.; MOTOR VEHICLE
DIVISION, State of New Mexico, ex
rel.; STATE OF NEW MEXICO,

Defendants - Appellees.

No. 11-2099
(D.C. No. 2:10-CV-01221-RB-LAM)
(D. of New Mexico)

ORDER

Before **BRISCOE**, Chief Circuit Judge, **LUCERO** and **GORSUCH**, Circuit
Judges.

This court lacks jurisdiction over this appeal because all of the claims
against all of the parties have not been finally adjudicated. *See* Fed. R. Civ. P.
54(b).

Pursuant to *Lewis v. B.F. Goodrich*, 850 F.2d 641, 645-46 (10th Cir. 1988), this court gave the plaintiff an opportunity to obtain either a final judgment or a Rule 54(b) certification from the district court. The district court denied the plaintiff's motion for certification.

The plaintiff asks this court to allow his appeal to proceed because the district court order is final as to some of the defendants. Without a final judgment or a proper Rule 54(b) certification, however, this court lacks jurisdiction. Moreover, only the district court may issue a Rule 54(b) certification and the denial of such certification is not appealable. *See McCall v. Deeds*, 849 F.2d 1259 (9th Cir. 1988); *Makuc v. American Honda Motor Co., Inc.*, 692 F.2d 172, 173-74 (1st Cir. 1982).

Accordingly, this appeal is **DISMISSED**.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

Ellen Rich Reiter
Deputy Clerk/Jurisdictional Attorney